IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Interim Relief Application No. 10893 of 2003
In
Civil Writ Petition No. 5943 of 2001 (S/S)
Old No. 1809 of 1996

Roomi Devi ….…… Petitioner

Versus

Union of India & others ……. Respondents

Mr. B.S. Khanka, learned counsel for the petitioner.
Mr. Rakesh Thapliyal, learned Standing Counsel for Union of India.

Hon. P.C. Verma, A.C.J.

The petitioner is a widow of deceased Sita Ram who was serving as a Pioneer (Sepoy) in the Pioneer Corps of the Army. He died in the year 1991. His family pension was not being paid. Therefore, this writ petition has been filed by the petitioner seeking a writ of mandamus to command the respondents to pay the family pension to her.

A counter affidavit has been filed where it has been stated that the petitioner is not entitled for payment of family pension as her husband had not completed 15 years of qualifying service. It has been further stated in the counter affidavit that despite six months relaxation given by the Department the service rendered by the Pioneer does not become qualified service. Mr. B.S. Khanka, learned counsel for the petitioner submits that after six month's relaxation only six days fall short in completion of qualifying service and the respondents could relax this six days period, as six days period is negligible which could have been relaxed treating his case as exception one.

Mr. Rakesh Thapliyal, learned counsel for the respondents submitted that if relaxation is given even of one day, then it will be a precedent for all and the Department will not be in a position to deny others similarly situated claims of family pensions. The object for payment of family pension is to provide sustenance to the dependents of the family of the deceased. The object is very laudable. Considering the object the six days delay is liable to be condoned. Therefore, this Court condones the delay of six days and directs the respondents for payment of family pension to the petitioner.

Petitioner is disposed of accordingly.

(P.C. Verma, A.C.J.)

Dt. 17.06.2004
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